

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GARY SMITH,)	
)	
Petitioner,)	
v.)	Civil Action No. 20-896
)	
OFFICE OF DISTRICT ATTORNEY)	
ALLEGHENY COUNTY, THE)	
ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA, and)	
SUPERINTENDENT,)	
SCI HUNTINGDON,)	
)	
Respondents.)	

MEMORANDUM ORDER

Gary Smith (Petitioner) has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, challenging the judgment of sentence imposed on him by the Court of Common Pleas of Allegheny County, Pennsylvania, at his criminal case at CP-02-CR-0013605-2011.. ECF No. 5. The case was referred to Magistrate Judge Cynthia Reed Eddy in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D. Magistrate Judge Eddy issued a Report and Recommendation filed July 8, 2021, recommending that the Petition for Writ of Habeas Corpus be denied and that a certificate of appealability be denied. ECF No. 24. The parties were informed that in accordance with 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2, that objections to the Report and Recommendation were due by July 26, 2021 for the electronically registered Respondents, and by July 23, 2021 for the non-electronically registered Petitioner. The Report and Recommendation mailed to Petitioner was returned to the Clerk's Office as the mailing envelope did not have a control number. The Report and Recommendation was remailed to Petitioner on July 26, 2021, with objections

amended to be due by August 9, 2021 for Respondents, and by August 12, 2021 for Petitioner. .
Petitioner has not filed Objections. After de novo review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 19th day of August 2021,

IT IS ORDERED that the Report and Recommendation, ECF No. 24, filed on July 8, 2021, by Magistrate Judge Eddy, is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is DENIED.

A certificate of appealability is DENIED, as jurists of reason would not disagree with the analysis of the Report.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the petitioner desires to appeal from this Order he must do so within thirty days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.

s/Marilyn J. Horan
Marilyn J. Horan
United States District Court Judge

cc: GARY SMITH
LG1071
SCI Huntingdon
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Huntingdon, PA 16654
(via U.S. First Class Mail)

Rusheen R. Pettit
Office of the District Attorney
Allegheny County
(via ECF electronic notification)